

AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE, INDIANA, ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES 1994 (OTTENWELLER COMPANY, INC. PROJECT)" AND LOAN PROCEEDS THEREOF TO OTTENWELLER COMPANY, INC., AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

WHEREAS, the City of Fort Wayne, Indiana (the "City"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of Indiana Section 36-7-12-1 et seq., as amended (the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions; and

WHEREAS, Ottenweller Company, Inc., an Indiana corporation (the "Borrower"), has agreed to acquire, construct and equip certain economic development facilities in Fort Wayne, Indiana, including the construction of a 35,000 square foot expansion to Borrower's existing manufacturing facility located at 3011 Congressional Parkway, Fort Wayne, Indiana 46808, and the acquisition and installation of manufacturing equipment to be used in Borrower's manufacture of fabricated ferrous metal parts for the heavy truck, construction and agriculture equipment industries (the "Project"), if the City will finance a portion of the cost of the Project with the proceeds from the sale of its City of Fort Wayne, Indiana, Economic Development First Mortgage Revenue Bonds, Series 1994 (Ottenweller Company, Inc. Project), in the aggregate principal amount of \$1,840,000 (the "Bonds"); and

WHEREAS, the Fort Wayne Economic Development Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to this Common Council the forms of (1) the Bond Purchase and Loan Agreement (the "Loan Agreement"), dated as of October 1, 1994, among the City, the Borrower and NBD Bank, N.A. (the "Original Purchaser") providing for the issuance and sale of the Bonds by the City, the loan by the City to the Borrower of the proceeds therefrom and securing the payment of the Borrower's obligations to the City; (2) the form of the Bond (contained in the

1 Loan Agreement); and (3) this Bond Ordinance (the
2 foregoing documents are hereinafter referred to,
3 collectively, as the "Loan Documents").

4
5 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
6 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA.

7 Section 1. Findings; Public Benefits. The
8 Common Council hereby finds and determines that the
9 Project is an "economic development facility" as that
10 phrase is used in the Act; that the acquisition,
11 construction and equipping of the Project will increase
12 employment opportunities and increase diversification
13 of economic development in the City, will improve and
14 promote the economic stability, development and welfare
15 in the City, will encourage and promote the expansion
16 of industry, trade and commerce in the City and the
17 location of other new industries in such area; and that
18 the public benefits to be accomplished by this Bond
19 Ordinance, in tending to overcome insufficient
20 employment opportunities and insufficient
21 diversification of industry, are greater than the cost
22 of public services (as that phrase is used in the Act)
23 which will be required by the Project.

24 Section 2. Authorization of the Bonds. In order
25 to pay a portion of the cost of the Project, the Bonds
26 are hereby authorized to be issued, sold and delivered.
27 Any additional costs of the Project will be paid for by
28 the Borrower.

29 Section 3. Terms of the Bonds. The Bonds shall
30 (i) be in the aggregate principal amount of \$1,840,000,
31 (ii) be dated as of October 1, 1994; (iii) be executed
32 at or prior to the closing date by the manual or
33 facsimile signatures of Mayor of the City and the Clerk
34 of the City; (iv) bear interest from the date of
35 delivery thereof at fixed rates of interest not to
36 exceed ten percent (10%) per annum; (v) mature at the
37 time and in the amounts set forth in the Loan Agreement
38 and shall have a stated maturity date of April 1, 2005;
39 (vi) be payable as to interest in monthly installments
40 on the first day of each month commencing December 1,
41 1994, and continuing to and including April 1, 1995,
42 and as to principal and interest in monthly
43 installments on the first day of each month commencing
44 May 1, 1995, and continuing to and including April 1,
45 2005; (vii) be issuable in denominations of \$5,000 or
46 whole multiples thereof, (viii) be issued only in fully
47 registered form, (ix) be payable through such medium
48 and at such places as provided therein, and (x) be

1 subject to optional and mandatory redemption as
2 provided in the Loan Documents. The Bonds and the
3 interest thereon do not and shall never constitute an
4 indebtedness of, or a charge against the general credit
5 or taxing power of, the City, but are limited
6 obligations of the City payable solely from revenues
7 and other amounts derived from the Loan Documents.
8 Forms of the Loan Documents are before this meeting and
9 are by this reference incorporated in this Bond
10 Ordinance, and the City Clerk is hereby directed to
11 insert them into the minutes of the Common Council and
12 to keep them on file.
13

14 **Section 4. Sale of the Bonds.** The Mayor and the
15 City Clerk are hereby authorized and directed to sell
16 the Bonds to or upon the order of the Original
17 Purchaser pursuant to the Loan Agreement at a price of
18 \$1,840,000 representing 100% of the par value thereof,
19 payment of which shall be made in accordance with the
20 provisions of the Loan Agreement.
21

22 **Section 5. Loan Agreement.** In order to provide
23 for the commitment of the City to sell the Bonds and to
24 provide for the loan of the proceeds of the Bonds to
25 the Borrower and the payment by the Borrower of amounts
26 sufficient to pay the principal of, premium, if any,
27 and interest on the Bonds, and in order to assign the
28 City's rights under the aforementioned loan to the
29 Original Purchaser, the Mayor and the City Clerk are
30 hereby authorized and directed to execute and deliver,
31 in the name of and on behalf of the City, the Loan
32 Agreement in substantially the form submitted to this
Common Council, which is hereby approved in all
respects.

24 **Section 6. Bonds.** The Mayor and the City Clerk
25 are hereby authorized and directed to execute and
26 deliver, in the name of and on behalf of the City, the
27 Bonds in substantially the form submitted to this
28 Common Council, which is hereby approved in all
29 respects.

29 **Section 7. Execution.** The Mayor and the City
30 Clerk are hereby authorized and directed to execute and
31 deliver, in the name and on behalf of the City, the
32 Bonds (in the form contained in the Loan Agreement),
and the Loan Agreement. The Mayor and the City Clerk
are hereby authorized, without further approval of the
Common Council or the Fort Wayne Economic Development
Commission, to approve such changes in the Loan

Documents as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. The City hereby elects to have the provisions of Section 144(a)(4)(A) of the Internal Revenue Code of 1986, as amended, apply to the Bonds.

Section 9. General. The Mayor and the City Clerk are, and each of them is, hereby authorized and directed, in the name and on behalf of the City, to execute any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the acquisition, construction and equipping of the Project by the Borrower, the issuance and sale of the Bonds, and the securing of the Bonds under the Loan Documents.

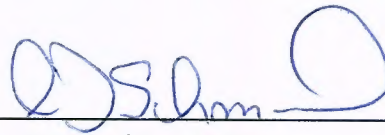
Section 10. Binding Effect. The provisions of this Bond Ordinance and the Loan Documents to which the City is a party shall constitute a binding contract between the City and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 11. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 12. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon its adoption by the Common Council and execution by the Mayor.

Section 13. Copies of Loan Documents on File. Two copies of the Loan Documents incorporated into this Bond Ordinance were duly filed in the office of the City Clerk and are available for public inspection in accordance with Indiana Code Section 36-1-5-4.

Section 14. That this Ordinance shall be in full force and effect from and after its passage, and execution by the Mayor.



Council Member

APPROVED AS TO FORM
AND LEGALITY

J. Timothy McCaulay by Linda P. Powell, Staff Atty.
J. Timothy McCaulay, City Attorney



The City of Fort Wayne

Paul Helmke, Mayor

MEMORANDUM

LAW DEPARTMENT

TO: MEMBERS OF COMMON COUNCIL

FROM: R. DAVID BOYER, ASSOCIATE CITY ATTORNEY

DATE: October 11, 1994

SUBJECT: OTTENWELLER/ECONOMIC DEVELOPMENT
MORTGAGE REVENUE BOND ISSUE

Attached is an Ordinance to authorize the issuance of \$1,900,000 Economic Development first Mortgage Revenue Bonds for Ottenweller Company, Inc. to allow them to construct a 35,000 square foot addition to their present manufacturing facility and to acquire additional equipment. Applicant represents that 8 additional jobs at start up will be created with a total of 25 additional jobs at the end of 3 years.

The Ordinance ratifies the Economic Development Commission final resolution and authorizes the bond issue allowing the Applicant to proceed with the construction and equipping of the project.

The bond issue is to be a limited obligation issue and will not impact the tax rate or the City's bonding capacity.

A failure to pass the Ordinance would cause the borrower to face increased interest expenses or to abandon the project.

RDB:dcb

attachments

J-94-10-03

Read the first time in full and on motion by Admish, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 10-11-94

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Admish, seconded by _____, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 10-25-94

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. S-81-94 on the 25th day of October, 1994

ATTEST:

(SEAL)

Sandra E. Kennedy

Archie Lunsney

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of October, 1994, at the hour of 11:30 o'clock PM, M., E.S.T.

Sandra E. Kennedy

SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of October, 1994, at the hour of 2:30 o'clock PM, M., E.S.T.

Paul Helmke

PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE ECONOMIC DEVELOPMENT FIRST MORTGAGE BONDS SERIES 1994 (OTTENWELLER COMPANY, INC. PROJECT)" AND LOAN PROCEEDS THEREOF TO OTTENWELLER COMPANY, INC. AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO.

DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT COMMISSION

SYNOPSIS OF ORDINANCE THIS ORDINANCE APPROVES AUTHORIZATION FOR ISSUANCE OF \$1,900,000 IN FIRST MORTGAGE REVENUE BONDS TO ENABLE OTTENWELLER COMPANY, INC. TO CONSTRUCT A 35,000 SQUARE FOOT ADDITION AND TO ACQUIRE ADDITIONAL EQUIPMENT AT ITS CURRENT SITE.

EFFECT OF PASSAGE OTTENWELLER COMPANY, INC. WILL BE ENABLED TO CONSTRUCT THE NEW ADDITION AND SECURE EQUIPMENT ENABLING THE CREATION OF 8 ADDITIONAL JOBS AT START UP AND 25 ADDITIONAL JOBS WITHIN 3 YEARS.

EFFECT OF NON-PASSAGE FINANCING WILL FAIL AND THE ADDITIONAL JOBS MAY BE LOST.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) NONE

ASSIGNED TO COMMITTEE (PRESIDENT) _____

BILL NO. S-94-10-03

REPORT OF THE COMMITTEE ON
FINANCE
CLETUS R. EDMONDS - DONALD J. SCHMIDT - CO-CHAIR
ARCHIE L. LUNSEY
DAVID C. LONG

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AUTHORIZING THE CITY OF
FORT WAYNE, INDIANA, TO ISSUE ITS "CITY OF FORT WAYNE, INDIANA, ECONOMIC
DEVELOPMENT FIRST MORTGAGE REVENUE BONDS, SERIES 1994 (OTTENWELLER
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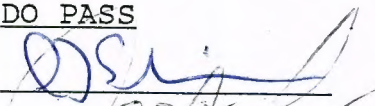
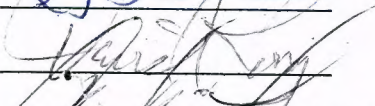
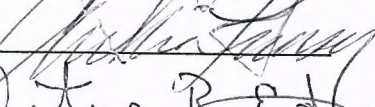
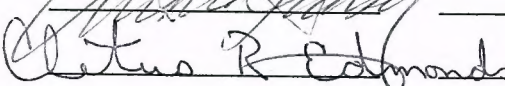
HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

DATED: 10-25-94.

Sandra E. Kennedy
City Clerk